

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

AFFYMETRIX, INC. and GREGORY L. KIRK,

Plaintiffs,

v.

ILLUMINA, INC.,

Defendant.

ORDER

11-cv-184-bbc

Plaintiffs Affymetrix and Gregory L. Kirk have filed a motion for summary judgment on their claim under 35 U.S.C. § 256 that the court should correct U.S. Patent No. 7,510,841 and U.S. Patent No. 7,612,020 to add Gregory Kirk as an inventor. Dkt. #36. I am staying briefing of this motion because it is premature. Pending before the court are a motion by plaintiffs for a hearing under § 256 and a motion by defendant Illumina, Inc. to dismiss the claim under the doctrine of claim preclusion. It is a waste of the parties' and the court's resources to fast forward to summary judgment before it is clear whether one of the other motions will render summary judgment unnecessary. Because the deadline for filing dispositive motions is still many months away, plaintiffs are not prejudiced by the stay.

ORDER

IT IS ORDERED that the motion for summary judgment filed by plaintiffs Affymetrix, Inc. and Gregory L. Kirk, dkt. #36, is STAYED until the court resolves the other motions pending in this case.

Entered this 30th day of June, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge